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SUITE 250
SIOUX FALLS, SD 57105-5807

MAILED

OCT 03 2011

OFFICE OF PETITIONS

In re Patent No. 6,340,195
Issue Date: January 22, 2002
Application No. 09/383,669
Filed: August 26, 1999
Patentees: Arizona Hall, et. al.

ON PETITION

This is a decision on the communication filed on July 27, 2011, which is being treated as a petition under 37 CFR 1.378(c), to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **dismissed**.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2).

The petition lacks item (1) above. In this regard, a review of the record shows that petitioner submitted \$1,240 for payment of the small entity 7 1/2 year maintenance fee and \$1,640 for the unintentional surcharge. However, petitioner failed to include a statement that the delay was unintentional. Therefore, reinstatement cannot occur until the statement of unintentional delay has been submitted. A form for compliance with 37 CFR 1.378(C) is enclosed for petitioner's convenience.

Additionally, 37 CFR 1.378(d) states that any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest.

In this case, the petition is signed by one of two joint inventors. An unsigned paper or one not properly signed by a person having authority to prosecute an application or patent is not entered. This applies, for instance, where a petition (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other.

Therefore, as the petition was not signed by all the inventors and the record herein fails to disclose that John Henry Hall was ever given a power of attorney to act on behalf of joint inventor Arizona Hall, or that John Hall is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b)¹, the petition filed July 27, 2007 cannot be accepted at this time.

A courtesy copy of this decision is being mailed to the addresses given in the present petition. Thereafter, all future communications regarding this patent will be mailed solely to the address of record unless otherwise instructed.

If petitioner desires to receive future correspondence regarding maintenance fees for the above patent, the enclosed "Fee Address Indication" and/or "Request for Customer Number" forms must be submitted.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within **TWO (2) MONTHS** from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). **Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f).** The petition for reconsideration must include the lacking item(s) noted above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

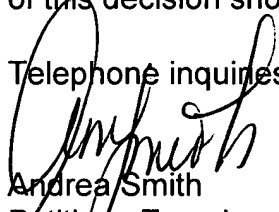
By hand: U.S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

¹37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

If petitioner does not wish to pursue reinstatement of this expired patent, petitioner may request a refund of the \$1,240 maintenance fee and the \$1,640 surcharge submitted with the petition. The request should be made in writing and addressed to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Telephone inquiries should be directed to the undersigned at (571) 272-3226.



Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent 37 CFR 1.378(c) – Form PTO/SB/66; Privacy Act Statement; Fee Address Indication Form – PTO/SB/47; Request for Customer Number Form – PTO/SB/125

cc: Arizona Hall
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